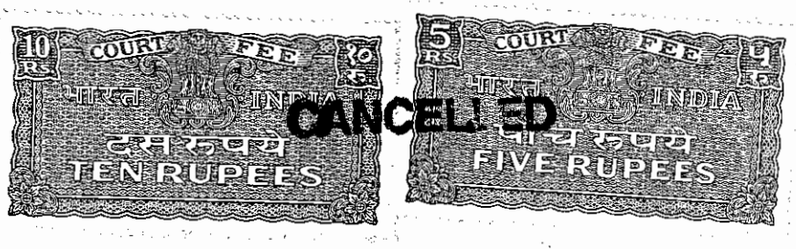

(3)

(1)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR
CHHATTISGARH

Single Bench

CIVIL REVISION NO. 36 /2005

APPLICANTS DEFENDANTS :

1] Minso, W/o. Late Rupan Uraon, Aged about 65 years, Occupation- Agriculture

2] Lutu S/o. Late Rupan, Aged about 45 years, Occupation- Agriculture

3] Naghiya S/o. Late Rupan, Aged about 42 years, Occupation- Agriculture

4] Mahavir S/o. Late Rupan, Aged about 35 years, Occupation- Agriculture

5] Jose S/o. Late Rupan, Aged about 32 years, Occupation- Agriculture

P.R. No. 704/05 Presented by Shri 03/08/05 dated 12/Bhanu Pd. Tiwari Mer

All above R/o. Village Lau, P.S. & Tahsil Rajpur, Distt. Surguja (C.G.)

VERSUS

RESPONDENTS DEFENDANTS :

1] Balo S/o. Punai, Aged about 60 years, Occupation- Agriculture R/o. Village Lau, P.S. & Tahsil Rajpur, Distt. Surguja (C.G.)

2] State of Chhattisgarh, Through: Collector,. Surguja, Distt. Surguja (C.G.)

REVISION PETITION U/S. 115 OF CODE OF CIVIL PROCEDURE

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(27)

आदेश पत्रक

मामला क्रमांक ...C.R...36/05 सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

22/03/2005

Shri Manoj Paranjape, counsel for the applicants.

Shri J.D.Bajpai, G.A. for the State.

Heard.

The applicant has preferred this revision against the impugned order dated 21/02/2005 passed by IV[th] Civil Judge Class II, Ambikapur in Civil Suit No. 12-A/2005 and by which two preliminary issues regarding valuation of the suit and regarding the objection of limitation has been decided against the applicant.

Learned counsel for the applicant submits that the suit was filed by the plaintiff for partition and possession with respect to the suit property as per the revenue records. The defendant in his written statement denied all the contentions and objected to the valuation put by the plaintiff and also challenged the suit with regard to limitation.

However, the trial Court after framing preliminary issues on the objection of the defendants held that by the impugned order, the suit was properly valued in accordance with Section 7(v) A of the Court Fees Valuation Act and the fact that after the death of the father of the applicants, the dispute had started and accordingly, suit for partition and possession was filed. Learned counsel for the applicant submits that the suit is filed for partition and separate possession and as per the judgment reported in ***1980 MPWN Vol. 2 Note No. 22 Bhagwati Vs. Chamar Rai*** , the plaintiff ought to have valued the suit on the basis of market value of the suit property.

He further submits that the house is situated on the land in question is the agricultural land and the plaintiffs are not seeking partition

I have heard the counsel for the applicants.

The case law relied upon by the counsel for the applicants is of no help and the law laid down is contrary to what is submitted by the counsel for the applicants wherein it is held that the legislature intended that the market value of a land revenue paying land for both the clauses will be the same i.e. 20 times the

(पीछे देखिये)

XI-HC-22

(28)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक .....C.R. 36/05 सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

land revenue as provided under Clause (v). A different interpretation will create a conflict in these two clauses in as much as in a suit for possession simpliciter of land assessed to land revenue, the plaintiff will be required to pay 20 times the land revenue, while in a suit for partition and separate possession. when plaintiff is out of possession he will be required to pay Court fees on the actual market value of the property in question and such interpretation cannot attribute such an inconsistency to the legislative intent.

However, learned counsel for the applicants does not press on the objection that the suit is barred by law of limitation. In view of the above discussions, there is no illegality committed by the Court below in passing the impugned order calling for interference under revisional jurisdiction. Accordingly, the revision is liable to be dismissed and it is dismissed.

Sd/-
Dhirendra Mishra
Judge